**THE HONOURABLE SRI JUSTICE V. ESWARAIAH**

**WRIT PETITION No.23296 OF 2005**

**Dated: 28.10.2005**

**Between**

M/s. Janab Sibte Nabi College of Engineering and Technology, Sirpur Kaghaznagar, Adilabad District, represented by its Chairman,
Dr. S. Askar Hussain, R/o. 6-3-1093, Somajiguda, Hyderabad.

...PETITIONER

**AND**

The Assistant Provident Fund Commissioner (AD), S.R.O. Karimnagar, Andhra Pradesh and another.

...RESPONDENTS

**ORDER:**

This writ petition is filed seeking a Writ of Mandamus to declare the Communication bearing No.AP/SRO/KRN/C:8/Damages/3628 dated 20.10.2005 of the first respondent insofar as it relates to levy of damages as illegal and arbitrary.

The petitioner is an Engineering College. It is stated that the petitioner was due and payable a sum of Rs.17,08,489/- towards contribution to the Employees' Provident Fund Organization as per the assessment order under Section 7A of the Employees' Provident

Funds and Miscellaneous Provisions Act, 1952 (for short 'the Act') for the period from 01/2000 to 04/2005. As the said amount has not been paid a Prohibitory Order dated 03.10.2005 was issued to the bank suspending the account of the petitioner. It is further stated that the entire amount of Rs.17,08,489/- towards contribution was paid by the petitioner by way of demand drafts drawn from Indian Bank
on 09.10.2005 and 15.10.2005. Therefore, I am of the opinion that the Prohibitory Order ceases to be in operation and as the petitioner has paid the entire amount the prohibitory order is deemed to have been lapsed.

It is further stated that thereafter a letter dated 20.10.2005 was issued by the Employees' Provident Fund Organization to the petitioner informing it to pay a sum of Rs.11,86,081/- towards the interest and damages for the belated remittances under Sections 7Q and 14-B of the Act and in case they do get any response from the petitioner immediately it is presumed that the said interest and damages are confirmed and necessary action under Sections 8 and 14-B of the Act would be initiated.

Learned counsel for the petitioner submits that no reasonable opportunity has been given to the petitioner before demanding the payment of the interest and damages for the belated remittances. Therefore, he may be given a reasonable opportunity to submit his explanation or representation disputing the said amount of interest and damages.

Having regard to the facts and circumstances of the case, the petitioner is directed to file an explanation/representation before the first respondent within ten days from the date of receipt of this order and on such filing of the explanation/representation the same may be considered and disposed of after giving a reasonable opportunity to the petitioner in accordance with law; till then it is made clear that the petitioner is entitled to operate the bank account.

The writ petition is accordingly disposed of.

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V. ESWARAIAH, J

October 28, 2005

Note: Issue CC by 31.10.2005

(B/o)

DSK